

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA16/1154.01
<b>Proposed development:</b>	Modification to Lot Amalgamation for an Approved Subdivision
<b>Property address:</b>	117 - 127 OConnell Street, CADDENS NSW 2747 129 - 141 OConnell Street, CADDENS NSW 2747 143 - 159 OConnell Street, CADDENS NSW 2747 185 Caddens Road, CADDENS NSW 2747 187 Caddens Road, CADDENS NSW 2747 189 Caddens Road, CADDENS NSW 2747 207 Caddens Road, CADDENS NSW 2747
<b>Property description:</b>	Lot 12 DP 522660 Lot 51 DP 1189505 Lot 101 DP 564332 Lot 1 DP 515678 Lot 2 DP 502333 Lot 6 DP 502333 Lot 755 DP 1180111
<b>Date received:</b>	27 March 2017
<b>Assessing officer</b>	Gannon Cuneo
<b>Zoning:</b>	Zone R1 General Residential - LEP 2010 RE1 Public Recreation - LEP 2010
<b>Class of building:</b>	N/A
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for the modification to an approved boundary adjustment between various sites bounded by Caddens Road to the south and OConnell Street to the north in Caddens. The proposed modification involves the retention of Lots 2 and 6 in DP 502333. This is the result of the administrative and acquisition process of the developer. The subject site is zoned R1 General Residential and is located within Caddens Release Area.

The boundary adjustment forms part of the second stage in a two stage boundary adjustment to create a number of super lots for further development, subject to subsequent development applications being lodged with Council. The proposed modification seeks to retain Lots 2 and 6 in DP 502333 which would have formed part of Lot 4 in DP 1229890. The applicant has confirmed the development of the land will proceed in accordance with DA16/1166 (as approved by SWPP) and that the proposed modification is the result of internal administrative processes.

In accordance with Appendix F4 of Penrith Development Control Plan 2014, the application was not required to be notified.

An assessment under Section 79C and 96 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval subject to recommended conditions.

### Site & Surrounds

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#### *Properties of the site*

The subject site is currently occupied by a single dwelling and is predominantly characterised as grassland with remnant vegetation. The subject site comprises the following properties:

- Lot 1 which is an unregistered lot and has been created from a boundary adjustment through DA16/1155;
- Lot 4 which is an unregistered lot and has been created from a boundary adjustment through DA16/1155;
- Lot 5 which is an unregistered lot and has been created from a boundary adjustment through DA16/1155;
- Lot 6 which is an unregistered lot and has been created from a boundary adjustment through DA16/1155;
- Lot 2 in DP 502333 which is known as 189 Caddens Road, Caddens;
- Lot 6 in DP 502333 which is known as 189 Caddens Road, Caddens;
- Lot 1 in DP 515678 which is known as 187 Caddens Road, Caddens;
- Lot 101 in DP 564332 which is known as 185 Caddens Road, Caddens;
- Lot 11 in DP 522660 which is known as 117-127 OConnell Street, Caddens; and
- Lot 12 in DP 522660 which is known as 129-141 OConnell Street, Caddens.

The topography of the subject site varies from 73 at the south eastern corner of Lot 1 in DP 515678 to 44.5 at the north eastern corner of unregistered Lot 5 adjoining OConnell Street. The site therefore has a slope from the proposed 'Hilltop park' site in various directions. The surrounding area is characterised by OConnell Street and University of Western Sydney to the north, State Archives, vacant land and Claremont Meadows to the east, existing rural residential development, a market garden and Caddens Road to the south and existing residential development and vacant land to the west.

#### **Site constraints**

The subject site contains an Easement to Drain Water 16 and 72.3 Wide and is located at the northern aspect of proposed Lot 5. This easement is proposed to be relinquished with the proposed boundary adjustment. The location of the easement on the subject site is identified as being the location for a future detention basin in accordance with Caddens Release Area Structure Plan in Chapter E1 of Penrith DCP 2014. The subject site is not identified as being affected by mainstream flooding, however the north eastern corner of the subject site and western aspect of proposed Lot 4 is affected by local overland flooding from tributaries of Werrington Creek.

#### **History**

Previous consents for the site include:

- Lot 2 in DP 502333 - No previous consents issued for the site;
- Lot 6 in DP 502333 - No previous consents issued for the site;
- Lot 1 in DP 515678 - No previous consents issued for the site;
- Lot 101 in DP 564332 -
  - DA11/0796 - Deferred Consent for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks;
  - DA11/0796.01 - Deferred Consent for Section 95A Application – Extension of Deferred Commencement Consent Period;
  - DA11/0796.04 - Consent Approved for Section 96(2) to modify Schedule 1 of the Deferred Commencement and the consent expiry date;
  - DA11/0796.05 - Deferred Consent for S96(1A) Proposed modification to subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks;
  - DA11/0796.06 - Consent Approved for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks; and
  - DA11/0796.07 - Consent Approved for Section 96 Modification to the Approved (Deferred Commencement) Subdivision of 3 x Existing Lots into 125 x Residential Lots, 1 x Public Reserve Lot, 5 x Residue Lots and Associated Works.
- Lot 11 in DP 522660 -
  - DA11/0796 - Deferred Consent for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks; and
  - DA11/0796.04 - Consent Approved for Section 96(2) to modify Schedule 1 of the Deferred Commencement and the consent expiry date.
- Lot 12 in DP 52260 -
  - DA11/0796 - Deferred Consent for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public

Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks;

- DA11/0796.01 - Deferred Consent for Section 95A Application – Extension of Deferred Commencement Consent Period;
- DA11/0796.04 - Consent Approved for Section 96(2) to modify Schedule 1 of the Deferred Commencement and the consent expiry date;
- DA11/0796.05 - Deferred Consent for S96(1A) Proposed modification to subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks;
- DA11/0796.06 - Consent Approved for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks; and
- DA11/0796.07 - Consent Approved for Section 96 Modification to the Approved (Deferred Commencement) Subdivision of 3 x Existing Lots into 125 x Residential Lots, 1 x Public Reserve Lot, 5 x Residue Lots and Associated Works.

The applicant attended a pre-lodgement meeting (PL16/0113) with the Development Advisory Panel on 29 September 2016 for the future development of the subject site. The prelodgement meeting identified the need to undertake a staged boundary adjustment to create a number of super lots for the staged development of 257 torrens title residential lots. The approved development is the second stage of a two stage boundary adjustment to create the proposed super lots.

## Proposal

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The approved development involves the boundary adjustment between the following lots:

- Lot 1 which is 1.017ha in area and is an unregistered lot. The lot has been created from a boundary adjustment through DA16/1155;
- Lot 4 which is 634.9m<sup>2</sup> in area and is an unregistered lot. The lot has been created from a boundary adjustment through DA16/1155;
- Lot 5 which is 3.241ha in area and is an unregistered lot. The lot has been created from a boundary adjustment through DA16/1155;
- Lot 6 which is 237m<sup>2</sup> in area and is an unregistered lot. The lot has been created from a boundary adjustment through DA16/1155;
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- Lot 2 in DP 502333 which is 1.8879ha in area;
- Lot 6 in DP 502333 which is 1454m<sup>2</sup> in area;
- Lot 1 in DP 515678 which is 2.298ha in area;
- Lot 101 in DP 564332 which is 3.41ha in area;
- Lot 11 in DP 522660 which is 2.688ha in area; and
- Lot 12 in DP 522660 which is 2.866ha in area.

The approved boundary adjustment of the abovementioned lots created the following lots as a result:

- Lot 4 being 7.771 hectares in area;
- Lot 5 being 4.822 hectares in area; and
- Lot 6 being 4.822 hectares in area.

The proposed modification seeks to retain the following lots:

- Lot 2 in DP 502333 which is 1.8879ha in area;
- Lot 6 in DP 502333 which is 1454m<sup>2</sup> in area;

The proposed modification will result in the creation/retention of the following lots:

- Lot 2 in DP 502333 which is 1.8879ha in area;
- Lot 6 in DP 502333 which is 1454m<sup>2</sup> in area;
- Lot 4 being 5.746 hectares in area;
- Lot 5 being 6.123 hectares in area; and
- Lot 6 being 3.522 hectares in area.

No physical works are proposed and it is understood that the proposed modification as above will allow for the staged residential subdivision, which is approved under DA16/1166.

The subject development application is for a modification to the approved boundary adjustment only and no physical works are proposed.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

### • Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and the following assessment is provided based on those requirements.

### • Section 96(1A) - Modifications involving minimal environmental impact

The development has been assessed in accordance with the matters for consideration under Section 79C and Section 96(1A) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

#### ***(1A) Modifications involving minimal environmental impact***

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
  - (i) the regulations, if the regulations so require, or*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The proposed modifications seek to remove Lots 2 and 6 in DP 502333 from the approved amalgamation into proposed Lot 4. This is a result of the administrative and acquisition process of the developer. The proposed modification has no implication on the future development of the land which will proceed under DA16/1166. The applicant has satisfactorily addressed the requirements of Section 96(1) of the Act. There will be no adverse impacts on adjoining properties or the natural environment resulting from the development. When considering the minimal environmental impact and the above matters, Council is satisfied that the development is substantially the same development for which the original consent was granted.

### **Section 79C(1)(a)(i) The provisions of any environmental planning instrument**

#### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

#### **Local Environmental Plan 2010 (Amendment 4)**

<b>Provision</b>	<b>Compliance</b>
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.1 - Minimum subdivision lot size	Complies

## **Section 79C(1)(a)(iii) The provisions of any development control plan**

## **Section 79C(1)(a)(iiia) The provisions of any planning agreement**

There are no planning agreements applying to this application. A planning agreement will be subject to negotiation between Council and the developer for the future development of the site.

## **Section 79C(1)(a)(iv) The provisions of the regulations**

The proposed development complies with the requirements of the Regulations.

## **Section 79C(1)(b)The likely impacts of the development**

It understood that the proposed development is for a modification to the configuration of a boundary adjustment only, which will allow for the future staged residential subdivision of the land in a timely and efficient manner. No physical works are proposed, therefore the likely impacts of the proposed development are minor.

## **Section 79C(1)(c)The suitability of the site for the development**

The site is suitable for the proposed development as it has been identified within Caddens Release Area Structure Plan as being part of the future development of Caddens. The proposed development is for the boundary adjustment of various lots to create 3 super lots. The boundary adjustment includes 4 residue lots which were created under DA16/1155 and are subject to future development applications for further development of those lots.

## **Section 79C(1)(d) Any Submissions**

### **Community Consultation**

In accordance with Appendix F4 - Notification and Advertising of the Penrith Development Control Plan 2014, the proposed development was not required to be notified to nearby and adjoining residents.

## **Section 79C(1)(e)The public interest**

The proposed development is for the modification to the approved configuration of a boundary adjustment and no physical works are proposed. It is anticipated that the proposed development will not generate any significant issues of public interest.

## **Conclusion**

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In assessing this application against the current relevant instruments being Environmental Planning and Assessment Act 1979, Rural Fires Act 1997, Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River, Penrith Local Environmental Plan 2010 and Penrith DCP 2014, with appropriate conditions, the proposal satisfies the requirements.

With the recommended conditions of consent, it is considered unlikely to have a negative impact on the surrounding properties and environment, the site is suitable for the development proposed and is considered to complement the existing surrounding developments.

## Recommendation

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1. That DA16/1154.01 for modification to approved boundary adjustment at the following properties be approved subject to the attached conditions:
  - 117 - 127 OConnell Street CADDENS NSW 2747
  - 129 - 141 OConnell Street CADDENS NSW 2747
  - 143 - 159 OConnell Street CADDENS NSW 2747
  - 185 Caddens Road CADDENS NSW 2747
  - 187 Caddens Road CADDENS NSW 2747
  - 189 Caddens Road CADDENS NSW 2747
  - 207 Caddens Road CADDENS NSW 2747

# CONDITIONS

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## General

### 1 A001

The development must be implemented substantially in accordance with the stamped approved Plan of Subdivision (Reference number 20467-C3, Prepared by Vince Morgan Surveyors, Dated 13.03.17), the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

*As amended under Section 96(1A) of the Environmental Planning and Assessment Act 1979 on 19 April 2017.*

### 2 A Special - APZ

At the issue of a Subdivision Certificate, and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

### 3 A Special (BLANK)

Proposed Lots 4, 5 and 6 are to be created as super lots, subject to future development application/s.

## Environmental Matters

### 4 D005 – No filling without prior approval (may need to add D006)

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

## Utility Services

### 5 G002 - Section 73 (not for

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of a Subdivision Certificate.**

## Subdivision

### 6 M008 - Linen Plan

Submission of the original Linen Plan and six (6) copies. All drainage easements, rights of way, restrictions and covenants are to be included on the linen plan.

All dedications of roads/drainage are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

## Certification

### 7 Q008 - Subdivision Certificate

A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.